CLEC to determine whether it can provide DSL service to a particular end user via either the HFPL UNE or a stand-alone loop. See id. ¶¶ 25, 30. When ordering an HFPL UNE, in contrast to a stand-alone xDSL-capable loop, the data CLEC must identify the Pacific end user's telephone number and specify the desired arrangement for the line splitter. See id. ¶¶ 72-73. CLECs can submit HFPL orders either manually or through the electronic interfaces Pacific makes available to CLECs. See id. ¶ 76; see generally Huston/Lawson Joint Aff. ¶¶ 159-166.

c. Line Splitting

Pacific permits CLECs to engage in line splitting using Pacific's UNEs in full compliance with the FCC's rules. Chapman Aff. ¶¶ 99-105. Pacific supports line splitting where a CLEC purchases separate UNEs (including unbundled loops, unbundled switching, and associated cross-connects) and combines them with its own (or a partner CLEC's) splitter in a collocation arrangement. A CLEC may lease an xDSL-capable loop UNE from Pacific and use the loop to provision both data and voice services itself or in collaboration with another CLEC. Id. ¶¶ 100-101. In addition, if a CLEC seeks to engage in line splitting for an existing UNE-P voice customer, Pacific will provide access to the same loop facility over which that customer currently receives service if the existing loop is xDSL-capable. See Texas Order ¶ 325. By allowing CLECs to engage in line splitting in these ways, Pacific meets all FCC requirements for line splitting. See, e.g., id. ¶¶ 323-329; Kansas/Oklahoma Order ¶¶ 220-221.

d. Performance in Provisioning xDSL-Capable Loops

The Commission has identified five areas of performance that are important in a BOC's demonstration that it provides nondiscriminatory access to xDSL-capable loops and related services: (i) average installation interval; (ii) missed installation appointments; (iii) quality of

provisioned xDSL-capable loops; (iv) timeliness and quality of xDSL loop maintenance and repair; and (v) access to pre-ordering and ordering information. See Kansas/Oklahoma Order ¶¶ 182-197; Texas Order ¶¶ 282-306; New York Order ¶¶ 334-335. Pacific's performance in each of these areas is superb, and accordingly establishes that Pacific "provisions xDSL-capable loops for competing carriers in substantially the same time and manner that it installs xDSL-capable loops for its own retail operations." Kansas/Oklahoma Order ¶ 185.

Specifically, Pacific provisions xDSL-capable and line-shared loops for California CLECs in a timely manner. See Johnson Aff. ¶¶ 107-111, 115-119. Between May and July 2002, Pacific almost always met the 95 percent benchmark for average installation intervals of stand-alone xDSL-capable loops in all regions, and, on a statewide basis, its installation performance on nonconditioned loops has been close to perfect. See id. ¶¶ 107-108 & Table. Likewise, in June and July of this year, Pacific missed less than one percent of due dates on xDSL-capable loops in all regions. Id. ¶ 115 (Table). Pacific's performance on line-shared loops has also been excellent. On a statewide basis over the last three months, Pacific's average interval for both conditioned and nonconditioned HFPL UNEs provided to CLECs has been virtually identical to its interval for ASI, see id. ¶¶ 109-110, and Pacific has met the due dates on 99.88 percent of such orders, see id. ¶ 118.

The quality of these advanced-services loops is also impressive. During the three months concluding in July 2002, CLECs on a statewide basis reported troubles within 30 days on approximately 5.95 percent of new standalone xDSL and IDSL loop orders – a figure that easily surpasses the CPUC's recently approved eight percent benchmark. See id. ¶ 122 & Table.

Pacific's performance on line-shared loops is even more impressive, with troubles reported within 30 days on only 2.01 to 2.65 percent of new orders in the last three months. Id. ¶ 123.

Pacific also provides data CLECs with quality and timely maintenance and repair service for advanced-services loops. The overall trouble report rate for stand-alone xDSL loops (in combination with IDSL loops, which are grouped together for purposes of the maintenance and repair measures) is less than half the 2 percent benchmark. See id. ¶ 126. Maintenance troubles associated with line-shared loops have likewise been minimal, and Pacific has met the parity standard for clearing troubles on such loops. Id. ¶ 127.[52]

Finally, with regard to ordering and pre-ordering, Pacific processes CLEC xDSL-related LSRs expeditiously, bettering the benchmark for returning FOCs during each of the past three months, see id. Attach. B (PMs 203900, 206500, 208000, 208100, and 208200), and, as discussed above, see supra Part II.D.1.a, its pre-order performance provides CLECs a meaningful opportunity to compete.

In sum, Pacific's excellent performance in provisioning xDSL-capable loops and related services demonstrates both that Pacific provides nondiscriminatory access and that CLECs have a meaningful opportunity to compete in the market for advanced services in California.

e. Performance in Provisioning BRI ISDN Loops

As they have elsewhere, CLECs in California have been offering IDSL service over loops designed to carry ISDN signals. As the FCC recognized in its Texas Order, "the fact that

[52] Despite this impressive record of overall performance, Pacific has missed a few maintenance and repair measures for DSL loops. See Johnson Aff. ¶¶ 126 & Table, 128. To address these issues, Pacific is implementing the process improvements described in the Affidavit of Richard Motta. See Motta Aff. ¶¶ 33-39.

competing carriers use BRI loops for IDSL service . . . makes provisioning work more difficult than that required for the ISDN service that [Pacific] provisions using BRI loops." Texas Order ¶ 301 (footnote omitted); see also Chapman Aff. ¶¶ 60-64.

Pacific has taken several steps to address the performance problems that stem from the technical incompatibility of some CLEC-provisioned IDSL service with the industry-standard BRI ISDN loop that Pacific offers. First, Pacific has worked with CLECs to develop a new IDSL loop offering that is now available. See id. ¶ 63. Pacific also upgraded the test equipment it uses to ensure that the IDSL-capable loop product is provisioned correctly. Id. ¶ 64.

Largely as a result of these efforts, Pacific's performance on the limited volumes of IDSL-capable loops has been strong. For the three-month period ending in July, Pacific met more than 95 percent of the committed due dates on a statewide basis. See Johnson Aff. ¶ 120. And the installation quality of IDSL-capable loops as well as Pacific's maintenance and repair of those loops – both of which, as noted above, are measured together with xDSL loops – are likewise impressive. See id. ¶¶ 123 & Table, 126-127 & Table.

f. Pacific's Broadband Service Offering

On September 8, 2000, the Commission modified the terms of the SBC/Ameritech merger conditions to permit SBC's incumbent LECs to own, operate, and install the plug-in cards and associated Optical Concentration Devices ("OCDs") integral to SBC's Project Pronto infrastructure deployment.[53] Through the deployment of Next Generation Digital Loop Carrier

[53] See Second Memorandum Opinion and Order, Applications of Ameritech Corp., Transferor, and SBC Communications Inc., Transferee, For Consent To Transfer Control, 15 FCC Rcd 17521 (2000) ("Modification Order").

("NGDLC") architecture and a massive investment in fiber facilities, Project Pronto extends the availability of DSL services to 20 million customers who could not be served under the existing network architecture. As part of this deployment, SBC agreed that its incumbent LECs would provide a broadband service offering on a wholesale basis to affiliated and unaffiliated advanced services providers. See Modification Order ¶ 30. All carriers, including ASI, can purchase this wholesale service on the same nondiscriminatory terms, and through use of the same pre-ordering and ordering systems.

The Modification Order, as the Commission emphasized, did not alter SBC's incumbent LECs' section 251 obligations, nor did it affect the necessary evidentiary burdens of section 271. See id. ¶¶ 9, 30. Likewise, the Modification Order did not "revise or restrict [the Commission's] existing definition of the local loop or the subloop network elements." Id. ¶ 29. Because neither the approval nor the deployment of Project Pronto affects Pacific's existing obligations under the 1996 Act and the Commission's implementing rules, Project Pronto has no bearing upon this proceeding. See Kansas/Oklahoma Order ¶¶ 244-245.

2. Nondiscriminatory Access to Stand-Alone Loops

Pacific's loop offerings in California include 2-wire analog loops with 8 dB or 5 dB loss, 4-wire analog loops, 2-wire ISDN digital-grade lines, 4-wire DS1 digital grade lines, DS3 digital loops, and various 2- and 4-wire loops capable of offering xDSL services. See Deere Aff. ¶ 76; AT&T Agreement Attach. 6 – UNE; Level 3 Agreement App. – UNE. Additional loop types are available through the Special Request process described in Part II.A, supra. See id. ¶ 78. For the small percentage of California end users served by integrated digital loop carrier ("IDLC") equipment – less than 1.5 percent – Pacific provides unbundled loops through alternative

facilities. Id. ¶¶ 94-96. For CLECs that choose to have Pacific provide loops on a physically separate basis, Pacific offers cross-connects that are matched to the loop type and arrangement selected by the CLEC. Id. ¶¶ 63-68.

a. DS1 Loop Performance

Pacific's performance in provisioning high quality DS1 loops on a timely basis has been strong. As Gwen Johnson explains in her affidavit, Pacific met the parity standard for 83.8 percent of the DS1-related provisioning submeasures between May and July 2002. See Johnson Aff. ¶ 132. In fact, Pacific's average installation interval for CLECs has been shorter than the interval for Pacific's retail operations, and Pacific misses a lower percentage of DS1 due dates for CLECs than it does for its own retail customers. Id. ¶¶ 133-134. The performance data demonstrate, moreover, that the quality of DS1 loops that Pacific provisions for California CLECs is high: Pacific has met almost every installation quality submeasure for this product in at least two of the last three months for which data are available. See id. ¶ 136. Likewise, Pacific's maintenance and repair performance has been outstanding: in the last three months, Pacific met or exceeded the relevant standard on both PM 19 (customer trouble report rate) and PM 23 (frequency of repeat troubles). Id. ¶¶ 137. Pacific has in some instances fallen short of the appropriate standard in restoring CLEC troubles in the committed timeframe (PM 20-95801) as well as in the average restoral interval (PM 21-96001). Id. ¶ 138. However, Pacific has developed and implemented a maintenance improvement plan to quickly identify trouble reports for special services, including DS1 loops, and to give such reports priority for repair. As a result, the timeliness of Pacific's DS1 maintenance efforts has improved in absolute terms and moved close to statistical parity. See Motta Aff. ¶¶ 45-46.

b. The NID and Subloop Unbundling

In addition to loops themselves, CLECs are able to obtain and use the Network Interface Device ("NID") under terms and conditions established by the California PUC. See Deere Aff. ¶¶ 51-53. CLECs may connect to the customer's inside wire at Pacific's NID at no charge, or they may pay Pacific to perform any NID repairs, upgrades, disconnects, or rearrangements they desire. Id. ¶ 53; AT&T Agreement Attach. 6 – UNE, § 4.2.1.1. Pacific also provides and connects the NID at no additional charge when CLECs order an unbundled loop. Deere Aff. ¶ 54. Recognizing that CLECs will likely provide their own NID when serving multiple dwelling units ("MDUs"), Pacific will relocate or rearrange the Pacific NID at an MDU to allow access to inside wiring. Id. ¶ 55.

CLECs also can order sub-elements of the local loop from Pacific on an unbundled basis. See id. ¶¶ 79-81; see UNE Remand Order ¶¶ 206-229. Available sub-elements include loop distribution facilities (the segment of a loop between a remote terminal and the NID or other point of demarcation), see Deere Aff. ¶ 80; fiber feeder facilities (the segment of a loop between a remote terminal served by DLC and the central office), id.; dark fiber, id. ¶¶ 88-92; and the digital loop carrier, id. ¶ 93.

c. Basic Loop Performance

Comprehensive performance measurements confirm Pacific's ability to process unbundled-loop orders, to provision these loops, and to bill for them, all the while ensuring that these transactions flow through Pacific's systems in a timely and accurate fashion. See generally Johnson Aff. ¶¶ 139-151.

Pacific's overall performance in the processing, provisioning, maintenance, and repair of unbundled loop requests has been easily sufficient to provide CLECs a meaningful opportunity to compete to serve local customers statewide. Pacific has consistently provided on-time provisioning performance to CLECs, and its missed due date rate for retail far exceeds that for CLECs. Id.¶ 141. CLECs report few provisioning problems on unbundled loops, and those they do report are resolved far more quickly than retail troubles. Id. ¶¶ 146-147. CLECs also encounter lower trouble report rates than Pacific's retail operations, and Pacific consistently clears those troubles that do occur within the committed interval. Id. ¶¶ 148-149.

d. Coordinated and Frame Due Time Conversions ("Hot Cuts")

Pacific offers California CLECs a choice between two different methods of coordinated conversions – the coordinated "to be called cut" ("TBCC")[54] process and the frame due time ("FDT") process – allowing CLECs to select the process that best fits their resources and priorities. See Cusolito/Henry/Johnson/Motta Aff. ¶¶ 6-7 (App. A, Tab 5). Pacific also has ample personnel resources in place to satisfy CLEC demand for either TBCC or FDT conversions, thus providing CLECs the ability to "choose freely between the [TBCC] and FDT hot cut processes." Kansas/Oklahoma Order ¶ 201; Texas Order ¶ 261.

Pacific's performance in the provisioning of TBCC conversions in California is easily sufficient to provide CLECs a meaningful opportunity to compete. Indeed, Pacific's performance is not merely sufficient, it is nearly perfect. Pacific has met each of the timeliness measures for coordinated cuts in each of the last twelve months, and its performance on the

[54] TBCC is analogous to the coordinated hot cut ("CHC") process in the SWBT states.

"outages on conversion" and "percentage troubles within 10 days" measures has likewise been close to flawless. See Johnson Aff. ¶ 157 & Attach. B (PM 9-90400 (completion of all cuts within one-hour of the scheduled end-time) & PM 9-90500 (same for standalone LNP))[55]; Cusolito/Henry/Johnson/Motta Aff. ¶¶ 42-43 (PM 15); id. ¶ 46 (PM 17).

In addition to satisfying the comprehensive hot cut measures established by the CPUC in collaboration with the CLECs, Pacific also satisfies the conversion standards that this Commission has applied in the section 271 context. See Texas Order ¶¶ 264, 270, 274. In particular, where the Commission has asked whether the BOC completes 90 percent of coordinated conversions involving 1-10 lines within one hour, see id. ¶ 264, Pacific completes more than 95 percent of even larger orders (1-12 lines) within one hour, see Cusolito/Henry/Johnson/Motta Aff. ¶¶ 33-35 & Table 3. Where the Commission has asked whether CLEC end-users experience outages on conversion on fewer than 5 percent of coordinated cuts, see Texas Order ¶ 270, Pacific demonstrates that such outages affect between one and two percent of such orders in the last three months for which data are available, see

[55] In July and August 2000, Pacific and AT&T reconciled Pacific's reported data for PM 9. Although the parties agreed on the accuracy of times recorded by Pacific, they disagreed over the proper interpretation of the business rules governing this particular measure. See Cusolito/Henry/Johnson/Motta Aff. ¶ 28. In particular, while Pacific records the "stop time" on this measure as the time the central office technician notifies the LOC that the cut is in fact complete, AT&T contends that the clock should continue to run until Pacific notifies the CLEC that the cut is complete. Id. ¶ 29. As the Commission has noted, the section 271 process is not the forum in which to address questions regarding "interpretations of business rules." E.g., New Jersey Order ¶ 101 n.275; see also Georgia/Louisiana Order ¶ 221 ("this Commission has recognized that individual states and BOCs may define performance measures in different ways") (internal quotation marks omitted). In any case, even under AT&T's interpretation, the timeliness of Pacific's conversions is sufficient to provide CLECs a meaningful opportunity to compete. See Cusolito/Henry/Johnson/Motta Aff. ¶¶ 30, 36-38.

Cusolito/Henry/Johnson/Motta Aff. ¶¶ 44-45 & Table 5. Finally, where the Commission has asked how many installation trouble reports the BOC receives within seven days, see Texas Order ¶ 274, Pacific received such reports on fewer than one percent of coordinate cuts in May and June of this year, and on only 1.53 percent of such cuts in July, see Cusolito/Henry/Johnson/Motta Aff. ¶ 47 & Table 7.

In the Texas and Kansas/Oklahoma proceedings, the FCC made clear that, for purposes of compliance with this checklist item, a BOC could demonstrate that it provided nondiscriminatory access to coordinated conversions through a coordinated process alone. Kansas/Oklahoma Order ¶ 201; Texas Order ¶ 272. Because Pacific's TBCC provisioning easily satisfies the FCC's hot cut criteria, and because Pacific allows CLECs freely to choose between the FDT and TBCC processes, Pacific has demonstrated that it provides nondiscriminatory access to hot cut loops in compliance with Checklist Item 4. At the same time, Pacific's FDT performance is outstanding in its own right, providing further evidence that Pacific provides hot cuts in a time and manner that permits CLECs a meaningful opportunity to compete. See Johnson Aff. ¶ 158 (noting that Pacific has met the FDT benchmark in each of the last three months for basic loop (PM 45-90000), loop with LNP (PM 45-90100), and standalone LNP (PM 45-90200)); see also Cusolito/Henry/Johnson/Motta Aff. ¶¶ 39-41 (reporting FDT on-time performance under Texas Order standard); id. ¶ 44-45 & Table 6 (same for outages on conversion); id. ¶¶ 47-48 & Table 8 (same for I-7).

E. Checklist Item 5: Unbundled Local Transport

Section 271(c)(2)(B)(v) of the competitive checklist requires Pacific to offer "[l]ocal transport from the trunk side of a wireline local exchange carrier switch unbundled from

switching or other services." 47 U.S.C. § 271(c)(2)(B)(v); see also 47 C.F.R. § 51.319(d). Pacific provides access in California to both dedicated interoffice transport and shared (common) transport consistent with the FCC's unbundling requirements. Deere Aff. ¶¶ 99-109; Shannon Aff. ¶¶ 91-94. In addition to these standard offerings, a CLEC may obtain new or additional unbundled transport elements through the BFR process. See Deere Aff. ¶ 69.

Dedicated Transport. Dedicated transport is available at standard transmission speeds of up to OC-48, and is available between Pacific's and a CLEC's wire centers or switches. Id. ¶¶ 103-104. Higher speeds will be provided as they become technically feasible. Id. ¶ 104. Pacific also permits CLECs to use dark fiber as an unbundled element to provide dedicated transport, in conformance with the UNE Remand Order. Id. ¶¶ 108-109.

Pacific provides the necessary cross-connects to interconnect a CLEC's network to unbundled transport. Id. ¶ 68. Pacific also provides all technically feasible types of multiplexing and demultiplexing. Id. ¶¶ 105-106. In addition, Pacific offers CLECs the use of its Digital Cross-Connect System – which allows CLECs to exchange signals between high-speed digital circuits without returning the circuits to analog electrical signals – with the same functionality that Pacific provides its interexchange customers. Id. ¶ 107.

Shared Transport. In accordance with the "shared transport" requirements of the Commission's UNE Remand Order, Pacific makes available shared (or "common") transport between Pacific central office switches, between Pacific tandem switches, and between Pacific tandem switches and Pacific central office switches. See Deere Aff. ¶ 102. CLECs using shared transport have access to the same routing tables that Pacific uses for its retail operations. See id. ¶¶ 102, 113. These CLECs may use shared transport to carry originating interexchange access

traffic from, and terminating interexchange access traffic to, customers to whom the CLEC is providing local exchange service. See Shannon Aff. ¶ 93.

Performance. Available data confirm that CLECs have nondiscriminatory access to dedicated and shared transport elements. For the period May through July 2002, Pacific achieved parity or met the benchmark for 100 percent of all provisioning submeasures associated with unbundled transport. See Johnson Aff. ¶¶ 159-163; see also id. ¶¶ 164-165 (discussing maintenance and repair of unbundled transport).

F. Checklist Item 6: Unbundled Local Switching

Pacific also satisfies section 271(c)(2)(B)(vi), which requires that a BOC provide unbundled local switching. See 47 U.S.C. § 271(c)(2)(B)(vi). Pacific provides CLECs unbundled switching capability with the same features and functionality available to Pacific's own retail operations, in a nondiscriminatory manner. Deere Aff. ¶¶ 110-135.

Available Facilities and Functions. Pacific provides requesting carriers access to line-side and trunk-side switching facilities, plus the features, functions, and capabilities of the switch. Id. ¶¶ 111-114; see also Second Louisiana Order, ¶¶ 207-209; Texas Order ¶¶ 336-338. Pacific's offerings include, among other things, the connection between a loop termination and a switch line card, Deere Aff. ¶ 111; the connection between a trunk termination and the trunk card, id. ¶ 112; all vertical features the switch is capable of providing, id. ¶ 113; and any technically feasible routing features, id.

Pacific also provides CLECs access to all call origination and completion capabilities of the switch, including capabilities for intraLATA and interLATA calls. Shannon Aff. ¶ 95. Unbundled tandem switching is also available, as is packet switching where required. Deere Aff.

¶¶ 128-134; see UNE Remand Order ¶ 313. Pacific provides CLECs with the necessary cross-connects for local switching. Deere Aff. ¶ 63. Pacific also furnishes CLECs with usage records that enable them to collect from their customers all retail, exchange access, and reciprocal compensation charges associated with these capabilities. See Flynn Aff. ¶ 10.

Customized Routing. CLECs using unbundled local switching may have calls "custom routed" according to their own specifications. Under each of the available options, the routing configuration is considered a Virtual Telephone Exchange, which uses line class codes and a class of service screening to perform the CLEC's requested routing. Deere Aff. ¶ 115; see generally id. ¶¶ 115-125.

G. Checklist Item 7: Nondiscriminatory Access to 911, E911, Directory Assistance, and Operator Call Completion Services

Pacific satisfies the requirements of Checklist Item 7, 47 U.S.C. § 271(c)(2)(B)(vii), by making emergency services (E911 and 911), directory assistance ("DA"), and operator services ("OS") available to CLECs on a nondiscriminatory basis. See generally Deere Aff. ¶¶ 136-162; Rogers Aff. ¶¶ 4-15 (App. A, Tab 17).

E911 and 911. E911 and 911 services allow telephone subscribers quick access to emergency assistance. Pacific provides CLECs access to these services in California through tariffs and interconnection agreements. See Deere Aff. ¶ 138. Approximately 90 CLECs in California have data listed in the E911 database. Id.

Pacific has implemented comprehensive procedures and systems for receiving, validating, updating, and processing rejected 911 customer records. Id. ¶¶ 138-157. At a CLEC's request, Pacific processes UNE-P and resale-based CLEC record updates upon completion of service provisioning. Id. ¶ 142. CLECs that provide service over their own

facilities or utilize UNE-loop or UNE-port only service process their own records. Id. ¶ 143. At a CLEC's request, Pacific performs error correction on CLEC records that fail built-in edits designed to ensure database integrity and accuracy, id. ¶¶ 143-144, and validates records for which Pacific is responsible against other databases to ensure accuracy, id. ¶ 153.

Pacific also facilitates the routing of E911 calls from the CLEC's chosen switching facilities through E911 control offices or selective routers to the appropriate Public Safety Answering Point ("PSAP"), and transmits the relevant customer information to the PSAP along with the E911 call. Id. ¶ 160. Pacific provides and maintains all equipment necessary for these services. Id.

Pacific also maintains dedicated E911 circuits according to CLECs' specifications. Id. ¶ 161. Pacific has installed approximately 2,900 E911 trunks in California to serve CLECs. See J.G. Smith Aff. Attach. A. Because Pacific does not have access to calling and blockage data on CLEC-originating trunks, however, switch-based CLECs must determine the number of dedicated E911 trunks they require and place timely orders for new trunks. Deere Aff. ¶ 161.

Directory Assistance/Operator Services. Pacific's OS/DA offerings allow CLECs (including both facilities-based carriers and resellers) to obtain nondiscriminatory access to OS/DA, OS/DA call completion, call branding, and rate quotation services. See generally Rogers Aff. CLECs may use customized routing to provide OS/DA services to their customers or route their customers' OS/DA calls to themselves or a third-party provider, see id. ¶ 11, or, alternatively, Pacific can provide these services. Pricing for all OS/DA services is market-based. Id. ¶ 14; see UNE Remand Order ¶ 446 (concluding that OS/DA need not be offered pursuant to section 251(c)(3) where customized routing is available).

Where CLECs opt to have Pacific provide OS/DA services, the CLECs' end users obtain OS/DA through the same dialing arrangements used by Pacific's own end users. See Rogers Aff. ¶ 7; see 47 C.F.R. § 51.217. Pacific ensures nondiscriminatory access to OS and DA by processing all calls from all customers on a first-come, first-served basis, and it offers call branding to all CLECs – including resellers, UNE-P providers, and facilities-based carriers – electing to use Pacific as their wholesale OS/DA provider. Rogers Aff. ¶ 8.

CLECs that provide their own DA services can obtain direct access to Pacific's DA database, obtaining listing information by searching the same DA database on a query-by-query basis in the same format that Pacific's DA operators use. Id. ¶ 13. In addition, Pacific provides DA listings in bulk with daily updates to CLECs that want to utilize Pacific's DA listings to provide DA services to their own customers. Id. ¶ 12. All DA listings in Pacific's DA database are available to requesting CLECs in California. Id.; see Second Louisiana Order ¶ 248.

Pacific has put in place performance measures to assess the accuracy and timeliness of its database updates. See Johnson Aff. ¶ 166. From May through July 2002, Pacific met or exceeded each submeasure associated with this checklist item save one submeasure in one month. Id. For that one exception (PM 38-00500), Pacific met the standard in June and July, as it has for 11 of the past 12 months. Id. ¶ 166 & n.101.

H. Checklist Item 8: White Pages Directory Listings

As required by 47 U.S.C. § 271(c)(2)(B)(viii), Pacific lists CLECs' and Pacific's customers on the same basis in Pacific's White Pages directories, and CLEC customers receive copies of these directories in a nondiscriminatory manner during the annual distribution of newly published books. See Rogers Aff. ¶¶ 16-18.

CLECs have the same listing options for their customers as Pacific offers to its retail customers. See id. ¶¶ 17-18. The listings of CLEC customers are interspersed alphabetically with the listings of Pacific's customers. Id. ¶ 17. As with database updates generally, see supra Part II.G, from May through July 2002, Pacific met or exceeded nearly all the prescribed standards of performance for the sub-measures associated with White Pages directory listings. See Johnson Aff. ¶¶ 166-170 & Attach. B (PMs 37 & 38).

I. Checklist Item 9: Nondiscriminatory Access to Telephone Numbers

Lockheed Martin assumed CO code administration responsibilities in California, a role subsequently assumed by NeuStar, Inc. See E. Smith Aff. ¶ 9 & n.2. Since completion of this transition of authority, Pacific has had no responsibility for number administration. Id. ¶ 9. Although it is no longer a central office code administrator, and no longer performs any functions with regard to number administration or assignment, Pacific (as a service provider) continues to adhere to numbering administration rules and industry guidelines. Id.

J. Checklist Item 10: Nondiscriminatory Access to Databases and Associated Signaling Necessary for Call Routing and Completion

Pacific offers CLECs the same access to signaling and call-related databases as Pacific has, allowing calls to or from CLEC customers to be set up and routed on a nondiscriminatory basis. See Deere Aff. ¶¶ 163-189. Pacific accordingly satisfies the checklist's requirements for affording nondiscriminatory access to these components of Pacific's network. See 47 U.S.C. § 271(c)(2)(B)(x); 47 C.F.R. § 51.319(e); Texas Order ¶¶ 362-368.

Signaling Networks. When a CLEC purchases unbundled local switching from Pacific, it obtains the same access to Pacific's signaling network as Pacific provides itself. Deere Aff. ¶¶ 164-165. CLECs can use this unbundled access to furnish SS7-based services for their own

end-user customers' calls or the calls of end-user customers of other carriers. Id. SS7 signaling is available between CLEC switches, between CLEC switches and Pacific switches, or between CLEC switches and the networks of other carriers connected to Pacific's SS7 network. Id. ¶ 164.

Call-Related Databases. Pacific offers CLECs nondiscriminatory access to a variety of call-related databases. Specifically, Pacific provides access to its Line Information Database ("LIDB"), calling name databases ("CNAM"), toll-free databases, and its Advanced Intelligent Network ("AIN"). See id. ¶¶ 168-181. Pacific likewise provides CLECs nondiscriminatory access its LIDB Operator Services Marketing Order Processor ("OSMOP"), which is used to create, modify, and update information in LIDB. See Deere Aff. ¶¶ 182-187; 47 C.F.R. § 51.319(e)(3).

K. Checklist Item 11: Number Portability

Number portability enables customers of facilities-based CLECs to retain their existing telephone number even after they no longer subscribe to Pacific's service. Every number ported by Pacific represents one or more existing Pacific lines lost to a CLEC – proving the CLECs' ability to compete head-to-head with Pacific. CLECs in California served approximately 1.1 million ported Pacific numbers as of the end of July 2002. J.G. Smith Aff. Attach. A. Whether ported with unbundled local loops or on a stand-alone basis, these numbers were ported in a timely and efficient manner, without unreasonable service disruptions. Indeed, Pacific has met the applicable benchmark for each local number portability ("LNP") submeasure in each of the past 12 months. See Johnson Aff. ¶ 174; see also supra Part II.D.2.d (discussing hot-cut performance generally).

As the Affidavit of Eric Smith describes, Pacific has timely implemented LNP using the Location Routing Number ("LRN") method "preferred" by the FCC. Second Report and Order, Telephone Number Portability, 12 FCC Rcd 12281, ¶ 9 (1997); see E. Smith Aff. ¶ 14. By January 31, 1999, Pacific had equipped all of its switches in California with LNP capabilities. E. Smith Aff. ¶ 4.

To minimize disruptions of service while numbers are being ported, Pacific uses an unconditional ten-digit trigger ("UCT") process. Id. ¶ 14.[56] UCT is activated on the customer's number upon receipt of the initial porting order. Id. When the CLEC activates its switch port, calls to the customer's telephone number are routed automatically to the CLEC's switch. Id. This makes it unnecessary for Pacific and the CLEC to coordinate LNP cutovers on a minute-to-minute basis.

In July 1999, the FCC approved Pacific's monthly end-user charge and database query service charges for LNP. See id. ¶ 19; see also Memorandum Opinion and Order, Long-Term Telephone Number Portability Tariff Filing of Ameritech Operating Companies, GTE System Telephone Companies, GTE Telephone Operating Companies, Pacific Bell and Southwestern Bell Telephone Company, 14 FCC Rcd 11883, ¶ 5 (1999).

Pacific is also in the process of implementing a mechanized process to ensure that, prior to porting a number to a CLEC, the CLEC has activated that number on its switch. See E. Smith

[56] The UCT process is available for all orders except Direct Inward Dial ("DID"), Private Branch Exchange ("PBX"), Integrated Service Digital Network Primary Rate Interface ("ISDN PRI"), and Automatic Call Distribution ("ACD"); on these orders Pacific will conduct coordinated LNP conversions with CLECs. See E. Smith Aff. ¶ 14 & n.13. Coordinated conversions are further discussed in Part II.D.2.d, supra.

Aff. ¶ 17. SBC developed this process because some CLECs had found that, where they attempted to cancel an LNP order outside of the normal window, Pacific was occasionally unable to process the cancellation, resulting in a customer outage. See id. ¶ 16. The process enhancement Pacific is implementing to address this issue goes beyond industry standards, see id. ¶ 18; accordingly, contrary to the suggestion in the July 23 Proposed Decision (at 204), it is not necessary to demonstrate compliance with Checklist Item 11.

To assess performance related to number portability, Pacific reports data on the timeliness of processing requests for number porting (PM 2), the timeliness of stand-alone LNP conversions (PM 9),[57] the timeliness of updating Pacific's SS7 network (PM 10), the quality of Pacific Bell's provisioning process for LNP (PMs 15 and 16), and maintenance timeliness and quality for troubles associated with Pacific's network that impact ported services (PMs 19 to 23). See Johnson Aff. ¶¶ 173-180. Pacific's performance on these measures is excellent. Pacific has met the relevant benchmark in each of the past three months for the LNP sub-measures relating to order processing timeliness, on-time conversions, and provisioning. See Johnson Aff. ¶¶ 175-177. Pacific's maintenance performance has been similarly impressive. Although Pacific has been unable to meet the "average of four hours" standard for restoring provisioning troubles, that is due to the CLEC practice of extending due dates and thereby classifying what are actually network troubles (which take a longer time to restore) as provisioning troubles subject to the four-hour window. Id. ¶¶ 178-179. Pacific's performance on the remaining maintenance and repair submeasures associated with LNP has been nearly flawless. Id. ¶ 180.

[57] Pacific also disaggregates conversion data (PMs 9 and 9A) by UNE loop with LNP, the results for which are discussed in Part II.D.2.d, supra.

L. Checklist Item 12: Local Dialing Parity

Local dialing parity ensures that CLECs' customers are able to place calls within a given local calling area by dialing the same number of digits as a Pacific end user. The FCC anticipated "that local dialing parity [would] be achieved upon implementation of the number portability and interconnection requirements of section 251." Second Report and Order and Memorandum Opinion and Order, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 19392, ¶ 71 (1996). Pacific has implemented number portability and the other related requirements of section 251, and CLEC customers can make local calls dialing the same number of digits as Pacific customers. See Deere Aff. ¶¶ 191-192.

M. Checklist Item 13: Reciprocal Compensation for the Exchange of Local Traffic

Consistent with sections 271(c)(2)(B)(xiii) and 252(d)(2), Pacific facilitates the exchange of traffic with CLECs by entering into just and reasonable reciprocal compensation arrangements for transport and termination of local traffic on the other carrier's network. Pursuant to these arrangements, Pacific and California CLECs exchanged approximately 6 billion minutes of local traffic in June of this year alone. See J.G. Smith Aff. Attach. A. This traffic has been accurately accounted for, and Pacific has entered into agreements to ensure the appropriate parties are compensated at lawful rates. See Shannon Aff. ¶¶ 98, 106. Pacific's reciprocal compensation arrangements thus satisfy Checklist Item 13 and further confirm the openness of local markets in California.

Pacific has entered into CPUC-approved interconnection agreements that contain rates, terms, and conditions for the mutual and reciprocal exchange of local telecommunications traffic.

See id. ¶ 98. Pacific also offers to switch local transit traffic to allow CLECs to interconnect indirectly with other local carriers using Pacific's facilities. See id. ¶¶ 101-102. This arrangement allows one CLEC to send traffic to another local carrier's network through Pacific's tandem, thus avoiding the cost of investing in facilities necessary to interconnect to all other local carriers in a local calling area. See id. A Transit Traffic rate element, applicable when calls are not originated by or terminated to Pacific's end user, includes tandem switching and transport charges and applies to local usage between CLECs that transit Pacific's tandem switch. See id. ¶ 102. The originating CLEC is responsible for paying the appropriate rates. Id.

Pacific records usage data for traffic passed between its network and CLECs' networks, including usage data for terminating access. See id. ¶ 100; Flynn Aff. ¶¶ 8-10; see also supra Part II.F (unbundled switching). On a monthly basis, Pacific transmits summaries of this usage information to the terminating CLEC for billing. See Shannon Aff. ¶ 100.

N. Checklist Item 14: Resale

Pacific's resale offerings allow CLECs to enter the local market in California with virtually no investment or delay. This is confirmed by the presence of CLECs reselling approximately 151,000 lines in California. See J.G. Smith Aff. ¶ 8, Table 1. The California PUC has established a generally applicable wholesale discount rate of 17 percent. See Scholl Aff. ¶ 13; Vandeloop Aff. ¶ 18. Pacific has incorporated these discounts into its tariff and has also incorporated it into interconnection agreements. See Vandeloop Aff. ¶ 18 n.19; Shannon Aff. ¶ 109.

Pacific makes available for resale the same services that Pacific furnishes its own retail customers. See Shannon Aff. ¶ 107. CLECs are able to sell these services to the same customer

groups and in the same manner as Pacific. Id. ¶¶ 110, 112. Pacific offers wholesale discounts on promotional offerings lasting more than 90 days. Id. ¶ 111; see AT&T Agreement Attach. 5 – Resale, § 2.1. Pacific's end-user customer service contracts are also available for resale, subject to terms and conditions approved by the FCC. Id. ¶ 114; see Kansas/Oklahoma Order ¶ 253; New York Order ¶ 390; Second Louisiana Order ¶ 313.

The performance results clearly demonstrate that Pacific provides CLECs nondiscriminatory access to wholesale arrangements that facilitate the resale of Pacific's services. In the last three months, Pacific has met 94 percent of its 468 resale-related submeasures. See Johnson Aff. ¶ 183.

With respect to the provisioning of resale services, Pacific's performance met 93.8 percent of the relevant standards in the last three months. Id. ¶ 184. On average, for the three-month period ending July 2002, resale POTS services (including residential and business services) were installed for CLECs in less than one day, irrespective of whether field work was required to complete the installation. Id. ¶ 185. On a state-wide basis, Pacific achieved parity for average completion intervals for resale in at least two of the last three reported months. The average completed interval provided to CLECs was shorter in each month than the interval provided to Pacific Bell's retail operations, on average. Id.

Moreover, for the last three months, on-time provisioning performance for resale services was excellent. Performance results for the various submeasures associated with Measure 11 (Percentage of Due Dates Missed) and Measure 12 (Percentage of Due Dates Missed due to a Lack of Facilities) reflected very high success rates. Id. ¶ 187 & n.127. Of the 174 opportunities in the past three months for resale services, as tracked in these submeasures, parity was achieved

for 98.3 percent of them. Id. And Pacific's performance with respect to meeting committed provisioning due dates was excellent over the past three months. For Measure 8 (Percentage Completed within Standard Interval), Pacific met the parity standard for all submeasures in each of the last three months. Id. ¶ 190. During the three-month period between May and July 2002, Pacific consistently completed the provisioning of resale services for CLECs within the standard interval for virtually every submeasure. Id.

Pacific also provides maintenance and repair services for resale lines in a manner that allows CLECs a meaningful opportunity to compete. Pacific's performance met 94.6 percent of the relevant standards in the last three months. Id. ¶ 193. Pacific's performance under Measure 19 (Customer Trouble Report Rate) generally achieved parity for resale services having reportable data in every month from May through July 2002. Id. ¶ 194. In almost every instance, in the past three months, the customer trouble report rate for resale services was less than one percent, whereas report rates for Pacific Bell retail services were generally in the range of one to three percent. Id.

Maintenance quality for resale services was excellent in the last three months. As reflected in Measure 23 (Frequency of Repeat Troubles in 30 Day Period), the frequency of repeat troubles for resale services was at parity with Pacific's retail services for every submeasure in each of the past three months. Id. ¶ 196. Whereas the repeat report rate during the past three months averaged about seven percent for resale POTS services, that rate was approximately eight percent for retail POTS services. Id. And overall, Pacific restored resale services more quickly than it restored services to its own retail customers, as reflected in

Measure 21 (Average Time to Restore), where performance met the parity standard in at least two of the past three months for every resale submeasure of Measure 21. Id. ¶ 197.

In her July 23 Proposed Decision, Judge Reed concluded that Pacific had failed to demonstrate compliance with Checklist Item 14 because its advanced services affiliate does not generally offer, at a wholesale discount, the DSL telecommunications services that it provides as a wholesale input to its affiliated and unaffiliated internet service providers. See July 23 Proposed Decision at 224-25. But this Commission has directly addressed this specific argument in the Arkansas/Missouri Order. See Arkansas/Missouri Order ¶¶ 79-84; see also Georgia/Louisiana Order ¶¶ 274-277. Just as in Arkansas and Missouri, SBC does not generally offer a DSL telecommunications service at retail in California, see Habeeb Aff. ¶ 15, so it is not required to offer such a service at a resale discount pursuant to section 251(c)(4). This Commission has already acknowledged that the section 271 process is not the appropriate proceeding in which to address the "far-reaching implications for a wide range of issues" relating to the regulatory treatment of high-speed Internet access services, Georgia/Louisiana Order ¶ 277, and the Commission has initiated a proceeding in which it intends to address these issues.[58]

With respect to those advanced telecommunications services that SBC does provide at retail – including Frame Relay, ATM Cell Relay (which are also tariffed as intrastate services in California), customer service contracts, and R-LAN DSL Transport – ASI makes all of them

[58] See Notice of Proposed Rulemaking, Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, 16 FCC Rcd 22781 (2001).

available for resale at a wholesale discount of 17 percent in California. See Habeeb Aff. ¶ 29; Navigator Agreement § 11.F (App. B, Tab 7).

III. SBC'S ENTRY INTO THE INTERLATA SERVICES MARKET IN CALIFORNIA WILL PROMOTE COMPETITION AND FURTHER THE PUBLIC INTEREST

Section 271 requires this Commission to determine whether interLATA entry "is consistent with the public interest, convenience, and necessity." 47 U.S.C. § 271(d)(3)(C). SBC's provision of interLATA services originating in California satisfies this requirement. As this Commission has previously recognized, "compliance with the competitive checklist is itself a strong indicator that long-distance entry is consistent with the public interest. This approach reflects the Commission's years of experience with the consumer benefits that flow from competition in telecommunications markets." Kansas/Oklahoma Order ¶ 266. As the Commission recently reiterated, "BOC entry into the long distance market will benefit consumers and competition if the relevant local exchange market is open to competition consistent with the competitive checklist." Georgia/Louisiana Order ¶ 281.[59]

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[59] Although this Commission has determined that its responsibility under the public-interest standard is broader than an assessment whether BOC entry would enhance competition in the long-distance market, see, e.g., Michigan Order ¶ 386, that position has never been reviewed on appeal and is, frankly, inconsistent with the plain text of the statute. The question under the statute is whether "the requested authorization is consistent with the public interest, convenience, and necessity." 47 U.S.C. § 271(d)(3)(C) (emphasis added). The "requested authorization" is obviously for permission to enter the long-distance market. This reading also finds strong support in section 271(c)(2)(B), which sets forth the competitive checklist, and section 271(d)(4), which states that "[t]he Commission may not . . . extend the terms used in the competitive checklist." It is implausible that Congress would have established the checklist and prevented the Commission from expanding upon it while nevertheless authorizing the Commission to add further local competition-related requirements in the context of its public-interest review. While SBC certainly believes that it has satisfied the Commission's broader understanding of its public-interest authority under section 271, it does not waive its objections to the Commission's expansive reading of its public-interest authority.